

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In re:	)	Case No. 19-11235 (JPS)
	)	
ERIC MARCUS HENRY, SR. and	)	Chapter 7
PAULETTE DEAN HENRY,	)	
	)	Judge: JESSICA E. PRICE SMITH
Debtors.	)	

**MOTION OF TRUSTEE FOR AUTHORITY TO COMPROMISE A PERSONAL  
INJURY CLAIM, AND TO PAY THE ATTORNEY FEES AND EXPENSES OF  
SPECIAL COUNSEL AND CERTAIN OTHER EXPENSES DIRECTLY FROM THE  
PROCEEDS OF THE SETTLEMENT**

Robert D. Barr, the Trustee herein (the “Trustee”), respectfully moves this Court, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, for an order authorizing him to compromise a personal injury claim. Trustee further requests authority to pay the attorney fees and expenses of special counsel, and certain other expenses from the settlement proceeds. In support of this motion, the Trustee states as follows:

1. The within case was commenced by the filing of a voluntary petition for relief under chapter 7 of the Bankruptcy Code on March 8, 2019 (the “Debtors’ Case”). The Debtors’ Case was reopened on October 31, 2020.
2. Robert D. Barr was appointed as trustee (the “Trustee”) in the Debtors’ Case.
3. At the time of the commencement of the Debtors’ Case, the Debtors, Eric Marcus Henry, Sr. and Paulette Dean Henry, had a personal injury/intentional tort claim, which arose from events that occurred prior to the commencement of the Debtors’ Case (the “Claim”). The Claim is asserted as party of a lawsuit pending in state court, and is disputed.

4. The Trustee previously retained the law firm of Bashein & Bashein Co., L.P.A. (“Special Counsel”) as special counsel to continue to pursue the Claim on a contingency fee basis. Pursuant to the terms of the contingency fee agreement with Special Counsel approved by the Court, Special Counsel is entitled to a contingency fee of 40% of any gross recovery, plus the reimbursement of costs and expenses. The contingency fee will be shared with Attorney Frank Zobec, who will receive one-third (1/3) of all attorney fees awarded. *See* Docket Nos. 26 and 27.

5. Through the efforts of Special Counsel, an offer has been made to settle the Claim for the gross amount of \$425,000.00 (the “Settlement Amount”). The Trustee believes it would be in the best interests of creditors and the bankruptcy estate if he is authorized to compromise the Claim for the total Settlement Amount of \$425,000.00, and requests authority to accept the settlement offer.

6. Pursuant to the contingency fee agreement previously approved by this Court, the Trustee further requests authority to pay Special Counsel the total sum of \$170,000.00 for its attorney fee (to be shared between Bashein & Bashein Co., L.P.A. and Attorney Frank Zobec) directly from the settlement proceeds. The Trustee further requests authority to pay the expenses and advances made by Special Counsel directly from the settlement proceeds, all of which are set forth in the following chart (the Chart”):

Gross Settlement Amount	\$425,000.00
Attorney Fee (40%)	(170,000.00)
Ciox Health	(217.01)
Medinform	(19.50)
IOD, Inc.	(53.85)
Cuyahoga County C.P. Court	(268.95)
Avalon Document Service	(55.60)
Judge Joseph Gibson (Mediator)	(2,916.66)
Copying and postage	(27.50)
Bureau of Workers Compensation	(30,000.00)
<b>Total Net Recovery to Estate</b>	<b>221,440.93</b>

The above, proposed disbursements are more fully itemized on the Disbursement Sheet attached hereto as Exhibit “A” and incorporated herein by reference.

7. The Trustee also requests authority to pay from the settlement proceeds: an Ohio Bureau of Workers Compensation Lien (reduced following negotiations), in the amount set forth in the Chart.

8. The net settlement award to be retained and/or received by the bankruptcy estate, after deduction of all proposed fees and expenses described in the above Chart, is the sum of \$221,440.93.

9. The Trustee believes the settlement proposed above is fair and equitable considering (a) the probability of success in litigating the Claim; (b) the potential for appeals; (c) the costs and expenses associated with litigation; (d) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (e) the paramount interest of the creditors. *See Christo v. Padgett*, 223 F.3d 1324, 1335 (11th Cir.2000), *cert. denied*, 531 U.S. 1191, 121 S.Ct. 1190, 149 L.Ed.2d 106 (2001); *Jeremiah v. Richardson*, 148 F.3d 17, 23 (1st Cir.1998); *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir.1996); *Conn. Gen. Life Ins.*

*Co. v. United Cos. Fin. Corp. (In the Matter of Foster Mortgage Corp.)*, 68 F.3d 914, 917 (5th Cir.1995); *In re Flight Transp. Corp. Sec. Litig.*, 730 F.2d 1128, 1135 (8th Cir.1984) (outlining the factors to be considered in reviewing a proposed compromise).

10. To the extent reasonably necessary and consistent with the Bankruptcy Code and Rules, the Trustee further requests authority to sign any settlement or release agreements.

11. Any allowable claim of exemption in the above settlement proceeds will be paid by the Trustee upon receipt of the net settlement funds. The asset described herein is separate and distinct from the workers compensation claim disclosed in the Debtor's original bankruptcy schedules.

WHEREFORE, Robert D. Barr, the Trustee herein, respectfully requests that this motion be granted, and that he be authorized to compromise the Claim for the gross settlement sum of \$425,000.00, all pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure. The Trustee further requests an order authorizing payment of the fees of Special Counsel, plus litigation expenses and other expenses, as itemized in the Chart specified in paragraph 6 of this motion, which will result in net settlement proceeds of \$221,440.93. The Trustee further requests authority to execute any and all settlement and release documents or agreements, to the extent reasonably necessary and consistent with the Bankruptcy Code and Rules.

Respectfully submitted,

/s/ Robert D. Barr  
Robert D. Barr, Trustee (#0067121)  
1111 Superior Avenue East, Suite 2500  
Cleveland, Ohio 44114  
Phone: (216) 539-9370  
Fax: (216) 916-4369  
Email: [barr-trustee@koehler.law](mailto:barr-trustee@koehler.law)

### **CERTIFICATE OF SERVICE**

I certify that on January 20, 2021, a true and correct copy of the foregoing Motion to Compromise was served:

**Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:**

Robert D. Barr, Trustee, at [barr-trustee@koehler.law](mailto:barr-trustee@koehler.law), [rdb@trustesolutions.net](mailto:rdb@trustesolutions.net)

William J. Balena, Attorney for Debtors, at [docket@ohbksource.com](mailto:docket@ohbksource.com),  
[janet@ohbksource.com](mailto:janet@ohbksource.com)

Edward Tufic Saadi, Attorney for the Ohio Bureau of Workers' Compensation, at  
[edwardsaadi@aol.com](mailto:edwardsaadi@aol.com)

Amy L. Good, Attorney for the United States Trustee, at [amy.l.good@usdoj.gov](mailto:amy.l.good@usdoj.gov)

**And to be served via regular U.S. mail, postage prepaid, to:**

W. Craig Bashein, Esq.  
Bashein & Bashein Co., L.P.A.  
Terminal Tower, 35<sup>th</sup> Floor  
50 Public Square  
Cleveland, Ohio 44113

Frank T. Zobec, Esq.  
820 W. Superior Ave.  
Suite 410  
Cleveland, Ohio 44113

See attached creditor list.

/s/ Robert D. Barr  
\_\_\_\_\_  
Robert D. Barr, Trustee

## **CREDITOR LIST**

Aaron Sales & Lease  
2800 Canton Road, #900  
Marietta, GA 30066

Abdul Razack MD  
1451 North Hartman Street  
Boise, ID 83704

AMCA  
P.O. Box 1235  
Elmsford, NY 10523

Arco Media Inc.  
1336 SE 47<sup>th</sup> Street  
Cape Coral, FL 33904

Ashley Funding Services, LLC  
Resurgent Capital Services  
PO Box 10587  
Greenville, SC 29603-0587

Beachbody  
3301 Exposition Blvd., 3<sup>rd</sup> Floor  
Santa Monica, CA 90404

Calvary Portfolio Service  
500 Summit Lake Drive  
Valhalla, NY 10595

CDI Affiliated Service  
1451 Hartman  
Boise, ID 83704

City of Lorain Taxation Department  
605 West Fourth Street  
Lorain, OH 44052

City of Lorain Utilities Dept.  
1106 West 1<sup>st</sup> Street  
Lorain, OH 44052

Acceptance Now  
5501 Headquarters Drive  
Plano, TX 75024

Amb. Surg. Center  
24700 Chagrin Blvd.  
Beachwood, OH 44122

Amherst Community Hospital  
254 Cleveland Avenue  
Amherst, OH 44001

Ashley Funding Services  
200 Meeting Street  
Charleston, SC 29401

AT & T Mobility  
P.O. Box 5014  
Carol Stream, IL 60197

Bermudez Financial Services  
1430 South Washington Street  
Millersburg, OH 44654

Capital One  
P.O. Box 71083  
Charlotte, NC 28272

Century Link  
P.O. Box 4300  
Carol Stream, IL 60197

City of Lorain Utility  
200 West Erie Avenue  
Lorain, OH 44052

Cleveland Clinic  
9500 Euclid Avenue  
Cleveland, OH 44195

Columbia Gas  
P.O. Box 742510  
Cincinnati, OH 45274

Community Health Partners  
578 North Leavitt Road  
Amherst, OH 44001

Direct TV  
P.O. Box 5008  
Carol Stream, IL 60197

Estate of Robert Vietzen  
Eric Severs, Esq.  
5 South Main St. #1  
Oberlin, OH 44074

Fidelity Collection  
855 South Sawburg Ave, #103  
Alliance, OH 44601

First Energy  
76 South Main Street  
Akron, OH 44308

First Premier Bank  
P.O. Box 5529  
Sioux Falls, SD 57117

Healthcare Medical Services  
Care Centrix  
4 Westchester Plaza, #110  
Elmsford, NY 10523

Laboratory Corp of America  
418 E Broad Street  
Elyria, OH 44035

Lifecare Ambulance, Inc.  
640 Cleveland Street  
Elyria, OH 44035

Columbia House  
1400 North Fruitridge Avenue  
Terra Haute, IN 47811

Credit One Bank  
P.O. Box 60500  
City of Industry, CA 91716

Elyria Memorial Hospital  
630 East River Street  
Elyria, OH 44035

FFCC  
24700 Chagrin Blvd, #205  
Beachwood, OH 44122

First Credit  
P.O. Box 630838  
Cincinnati, OH 45263

First Federal Savings of Lorain  
2233 East 42<sup>nd</sup> Street  
Lorain, OH 44055

Govind K. Mehta MD  
125 East Broad Street, #219  
Elyria, OH 44035

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101

Lakeshore Auto Wholesalers, Inc.  
1423 Cooper Foster Park Rd.  
Amherst, OH 44001

Lorain County Job & Family Service  
42485 North Ridge Road  
Elyria, OH 44035

LVNV Funding  
P.O. Box 10497  
Greenville, SC 29603

LVNV Funding, LLC  
Resurgent Capital Services  
PO Box 10587  
Greenville, SC 29603-0587

Manley Deas Kochalski  
P.O. Box 165028  
Columbus, OH 43216-5028

Mercy Health Partners  
3700 Kolbe Road  
Lorain, OH 44053

Midfirst Bank  
999 NW Grand Blvd, #100  
Oklahoma City, OK 73118

NES Probill Secondary  
P.O. Box 15670  
Brooksville, FL 34604

NESAO Surgical  
6100 Rockside Woods, #425  
Independence, OH 44131

NOMS Healthcare  
P.O. Box 378  
Sandusky, OH 44871

Ohio BMV  
P.O. Box 16520  
Columbus, OH 43216

Ohio Edison  
5001 NASA Blvd.  
Fairmount, WV 26554

Ohio Edison  
P.O. Box 3637  
Akron, OH 44309

Penn Foster High School  
925 Oak Street  
Scranton, PA 18515

Physician Link Center  
P.O. Box 3194  
Indianapolis, IN 46206

Progressive Insurance Company  
6300 Wilson Mills Road  
Cleveland, OH 44143

Quantum 3 Group  
P.O. Box 788  
Kirkland, WA 98083

Quantum 3 Group  
15130 Broadmoor Street  
Shawnee Mission, KS 66223

RBA  
1720 Cooper Foster Road, #B  
Lorain, OH 44053

Revenue Group  
4780 Hinckley Industrial Pkwy, #200  
Cleveland, OH 44109

Springfield Financial  
5222 Detroit Rd  
Elyria, OH 44035

Springleaf/One Main Financial  
P.O. Box 3251  
Evansville, IN 47731

Sprint  
P.O. Box 4191  
Carol Stream, IL 60197

Superior Medical Care Inc.  
5334 Meadow Lane Court  
Elyria, OH 44035



The Avenue  
P.O. Box 659584  
San Antonio, TX 78265

University Hospitals Elyria Medical Center  
630 River Street  
Elyria, OH 44035

Verizon  
P.O. Box 15124  
Albany, NY 12212

Wells Fargo  
P.O. Box 19657  
Irvine, CA 62623

World Gym  
5248 Cobblestone Rd  
Sheffield Lake, OH 44054

University Hospitals Avon Health Ctr: ER  
1997 Healthway Drive  
Avon, OH 44011

US Dept of Education  
2401 International  
Madison, WI 53704

Wells Fargo  
P.O. Box 997517  
Sacramento, CA 95899

Winter Park Memorial Hospital  
200 N Lakemont Avenue  
Winter Park, FL 32792